

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES**

**COMMUNITY FACILITIES DISTRICT NO. 17  
(CAPITOL EXPY – EVERGREEN PLACE)**

WHEREAS, pursuant to Chapter 14.27 of Title 14 of the San Jose Municipal Code, which incorporates and modifies the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (together, the “Ordinance”), this Council is the legislative body for the proposed community facilities district and is empowered with the authority to establish a community facilities district;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

1. This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Ordinance.
2. The name proposed for the community facilities district is “Community Facilities District No. 17 (Capitol Expy – Evergreen Place)” (the “CFD”).
3. The proposed boundaries of the CFD are as shown on the map of the CFD on file with the City Clerk of the City and attached hereto and incorporated herein by reference as Exhibit “A”, which boundaries are hereby approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to endorse thereon the aforesaid filing and the date of adoption of this resolution and to record, or cause to be recorded, the map of the boundaries of

the CFD in the office of the County Recorder of the County of Santa Clara prior to the public hearing referred to in paragraph 10 below.

4. The type of public services (the “Services”) proposed to be financed by the CFD and pursuant to the Ordinance shall consist of those items listed as Services on Exhibit “B” hereto and by this reference incorporated herein.
5. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD, and collected in the same manner as ordinary ad valorem property taxes, or in such other manner as may be determined by the City. The proposed rate and method of apportionment of the special tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are described in Exhibit “C” attached hereto and by this reference incorporated herein.
6. This Council acting as the legislative body for the CFD does not intend to cause bonds of the City to be issued for the CFD pursuant to the Ordinance to finance in whole or in part the Services.
7. The levy of said proposed special tax shall be subject to the approval of the landowners of the CFD at a special election. The proposed voting procedure shall be by mail or hand-delivered ballot among the landowners in said proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD. It is hereby determined that the Services financed by the CFD are necessary to meet increased demands placed on the City as a result of development or rehabilitation occurring in the CFD.

8. Except as may otherwise be provided by law, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be exempt from the levy of the special tax to be made to cover the costs and expenses of the Services. In the event that a portion of the property within the CFD shall later be transferred to a public entity for any reason, the levy of the special tax shall be as described in Exhibit "C", Section E.
  
9. The City Engineer of the City, as the officer having charge and control of the Services in and for the CFD, is hereby directed to study said proposed Services and to make, or cause to be made, and file with the City Clerk a report in writing, presenting the following:
  - (a) A description of the Services by type which will be required to adequately meet the needs of the CFD.
  
  - (b) An estimate of the fair and reasonable cost of the Services, including incidental expenses in connection with said Services.

Said report shall be made a part of the record of the public hearing provided for below.
  
10. Tuesday, August 14, 2018 at 1:30 p.m., or as soon thereafter as the City Council may reach the matter, in the regular meeting place of this Council, City Council Chambers, 200 East Santa Clara Street, San Jose, California, is hereby appointed and fixed as the time and place when and where this Council, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD and the levy of said special tax.

11. The City Clerk is hereby directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication of said notice shall be completed at least seven (7) days before the date herein set for said hearing. Said notice shall be in the form specified in the Ordinance.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

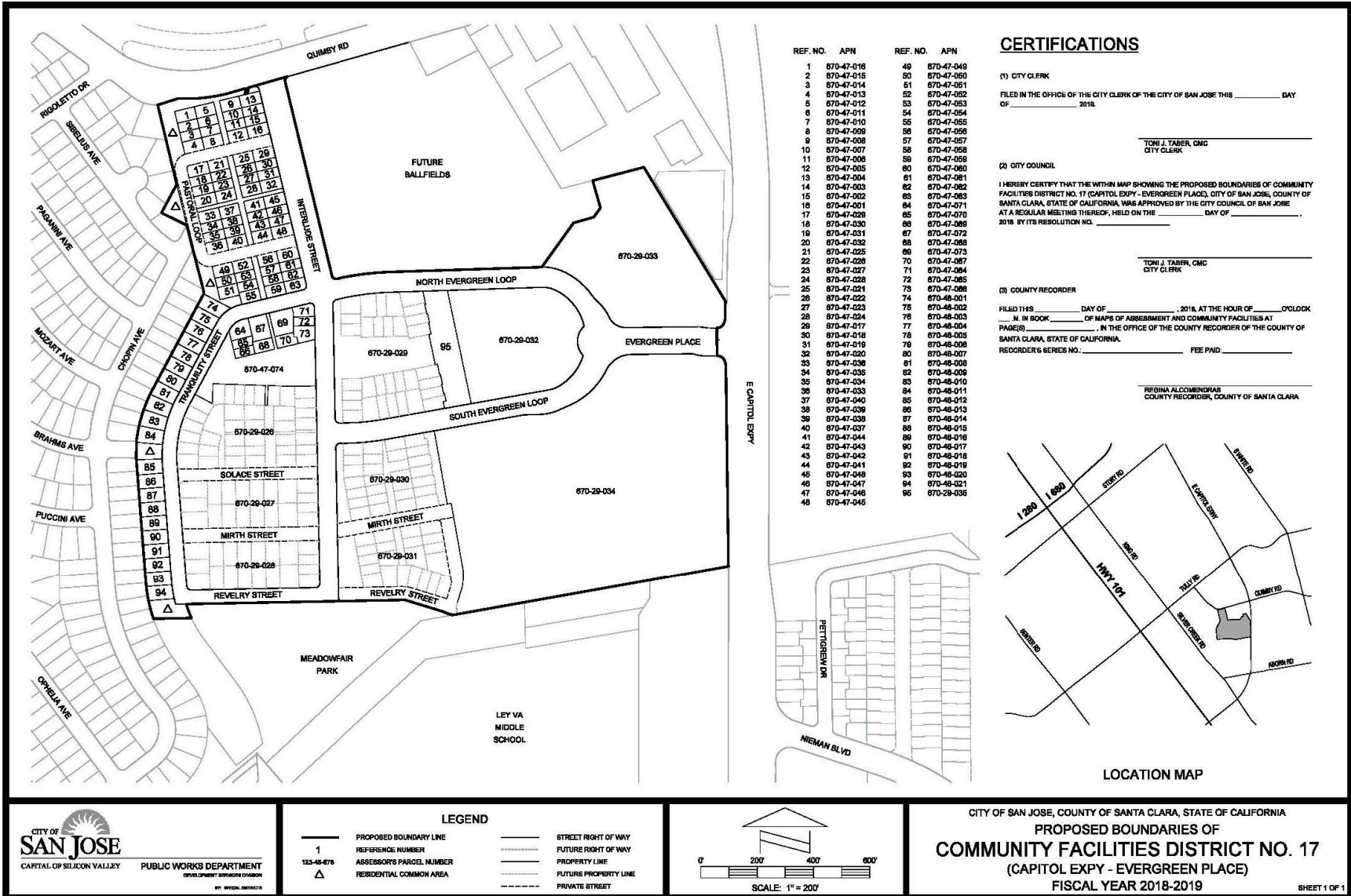
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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk



REF. NO.	APN	REF. NO.	APN
1	870-47-018	49	870-47-048
2	870-47-019	50	870-47-050
3	870-47-014	51	870-47-051
4	870-47-013	52	870-47-052
5	870-47-012	53	870-47-053
6	870-47-011	54	870-47-054
7	870-47-010	55	870-47-055
8	870-47-009	56	870-47-056
9	870-47-008	57	870-47-057
10	870-47-007	58	870-47-058
11	870-47-006	59	870-47-059
12	870-47-005	60	870-47-060
13	870-47-004	61	870-47-061
14	870-47-003	62	870-47-062
15	870-47-002	63	870-47-063
16	870-47-001	64	870-47-071
17	870-47-029	65	870-47-070
18	870-47-030	66	870-47-068
19	870-47-031	67	870-47-072
20	870-47-032	68	870-47-068
21	870-47-025	69	870-47-073
22	870-47-028	70	870-47-067
23	870-47-027	71	870-47-064
24	870-47-028	72	870-47-065
25	870-47-024	73	870-47-066
26	870-47-022	74	870-48-001
27	870-47-023	75	870-48-002
28	870-47-024	76	870-48-003
29	870-47-017	77	870-48-004
30	870-47-018	78	870-48-005
31	870-47-019	79	870-48-006
32	870-47-020	80	870-48-007
33	870-47-036	81	870-48-008
34	870-47-035	82	870-48-009
35	870-47-034	83	870-48-010
36	870-47-033	84	870-48-011
37	870-47-040	85	870-48-012
38	870-47-038	86	870-48-013
39	870-47-039	87	870-48-014
40	870-47-037	88	870-48-015
41	870-47-044	89	870-48-016
42	870-47-043	90	870-48-017
43	870-47-042	91	870-48-018
44	870-47-041	92	870-48-019
45	870-47-048	93	870-48-020
46	870-47-047	94	870-48-021
47	870-47-046	95	870-29-036
48	870-47-045		

**CERTIFICATIONS**

(1) CITY CLERK  
 FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018.

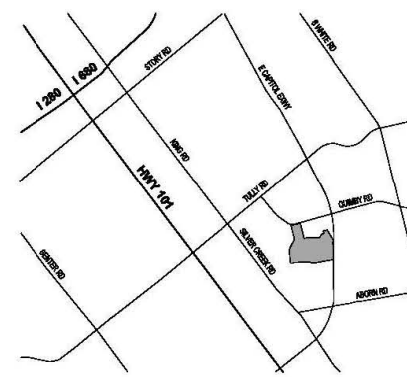
TONI J. TABER, CMC  
 CITY CLERK

(2) CITY COUNCIL  
 I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 17 (CAPITOL EXPY - EVERGREEN PLACE), CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF SAN JOSE AT A REGULAR MEETING THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018 BY ITS RESOLUTION NO. \_\_\_\_\_.

TONI J. TABER, CMC  
 CITY CLERK

(3) COUNTY RECORDER  
 FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES AT PAGE(S) \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.  
 RECORDER'S SERIES NO. \_\_\_\_\_ FEE PAID: \_\_\_\_\_

REGINA ALCOMENORAS  
 COUNTY RECORDER, COUNTY OF SANTA CLARA

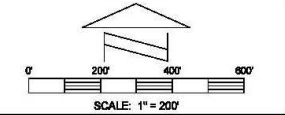


LOCATION MAP



**LEGEND**

—	PROPOSED BOUNDARY LINE	—	STREET RIGHT OF WAY
1	REFERENCE NUMBER	-----	FUTURE RIGHT OF WAY
123-45-678	ASSESSOR'S PARCEL NUMBER	-----	PROPERTY LINE
△	RESIDENTIAL COMMON AREA	-----	FUTURE PROPERTY LINE
		-----	PRIVATE STREET



CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA  
**PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 17 (CAPITOL EXPY - EVERGREEN PLACE)**  
 FISCAL YEAR 2018-2019  
 SHEET 1 OF 1

**EXHIBIT B****CITY OF SAN JOSE  
COMMUNITY FACILITIES DISTRICT NO. 17  
(CAPITOL EXPY – EVERGREEN PLACE)****DESCRIPTION OF SERVICES**

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The Services proposed to be financed by Community Facilities District No. 17 (Capitol Expy – Evergreen Place) (the “CFD No. 17”) of the City of San José will provide for the maintenance of various improvements associated and approved within the Evergreen Area. Maintenance of the improvements may include but will not be limited to necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for safe and proper maintenance of the items set forth below. This list of items identifies those improvements and amenities which are authorized to be funded by CFD No. 17; however, not all items on this list are guaranteed to be funded by the CFD.

**Items Authorized to be Maintained**

- Parkstrip landscape fronting the residential development and regional park along the public right-of-way (Quimby Road excluded)
- Median Island landscape
- Roundabout landscape
- Pork chop island landscape
- Tree maintenance within district maintained landscape
- Hardscape in district maintained median islands, roundabout, pork chop islands, and parkstrips
- Decorative crosswalks along residential development
- Graffiti removal on district maintained public improvements

## ATTACHMENT C

### CITY OF SAN JOSE COMMUNITY FACILITIES DISTRICT NO. 17 (CAPITOL EXPY – EVERGREEN PLACE)

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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A Special Tax, hereinafter defined, shall be levied on all Assessor's Parcels of Taxable Property in Community Facilities District No. 17 (Capitol Expy – Evergreen Place) of the City of San Jose ("CFD No. 17") and collected each Fiscal Year commencing in Fiscal Year 2019-2020 in an amount determined by the City Council of the City of San Jose, through the application of this Rate and Method of Apportionment as described below. All of the real property in CFD No. 17, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other map or plan recorded with the County. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

**"Act"** means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code, as incorporated into and modified by Chapter 14.27 of Title 14 of the Municipal Code of the City.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 17: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 17, or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 17 for any other administrative purposes of CFD No. 17, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure as a result of delinquent Special Taxes.

**"Assessor's Parcel" or "Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

## ATTACHMENT C

**“Assessor’s Parcel Map”** means an official map of the Assessor of the County designating parcels by Assessor’s Parcel number.

**“Authorized Maintenance Services”** means, for each Fiscal Year, the street maintenance (including maintenance of trees, landscape and hardscape) and other maintenance services eligible to be funded by CFD No. 17, as defined in the Resolution of Intention.

**“Building Permit”** means, full structural building permits as well as partial permits such as foundation-only permits.

**“CFD Administrator”** means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

**“CFD No. 17”** means Community Facilities District No. 17 (Capitol Expy – Evergreen Place) of the City of San José.

**“City”** means the City of San José.

**“Consumer Price Index” or “CPI”** means, for each Fiscal Year, the prior calendar year’s annual average consumer price index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco-Oakland-San Jose Area. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose Area.

**“Council”** means the City Council of the City, acting as the legislative body of CFD No. 17.

**“County”** means the County of Santa Clara.

**“Developed Property”** means, for each Fiscal Year, all Taxable Property for which a Planning or Building has been issued on or before June 30 of the prior Fiscal Year. Notwithstanding the foregoing, (a) if a building permit is revoked, expired or otherwise cancelled and a new building permit is issued for the same property, then the building type as indicated on the new building permit shall thereafter be used for purposes of determining the Land Use Class, and (b) if a building permit is revoked, expired or otherwise cancelled and no new building permit is issued for the same property, then the property will continue to be considered Developed Property and taxed based on the original building permit.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

**“Land Use Class”** means any of the classes in Section C below.

**“Maximum Special Tax”** means the maximum Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on each Assessor’s Parcel within the boundaries of CFD No. 17.



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**“Non-Residential Property”** means a Parcel of Developed Property within the boundaries of CFD No. 17 for which a Planning, Building, or Public Works permit(s) was issued for a non-residential use.

**“Planning Permit”** means a tentative map, parcel map, conditional use permit, site development permit, planned development permit, development agreement, or special use permit, or any discretionary permit excluding general plan amendments, zoning and rezoning, annexation, specific plans, and area development policies.

**“Public Property”** means property within the boundaries of CFD No. 17 owned by, dedicated to, or irrevocably offered for dedication to the federal government, the State of California, the County, the City, or any other public agency, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**“Rate and Method of Apportionment”** means this Rate and Method of Apportionment for CFD No. 17.

**“Residential Property”** means any Parcel of Developed Property within the boundaries of CFD No. 17 for which a building permit for new construction has been issued for purposes of constructing one or more residential dwelling units.

**“Resolution of Formation”** means the Council resolution declaring the results of the special election for CFD No. 17.

**“Special Tax”** means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property within CFD No. 17 to fund the Special Tax Requirement, but in no event greater than the Maximum Special Tax.

**“Special Tax Requirement”** means that amount required in any Fiscal Year for CFD No. 17 to: (i) pay for Authorized Maintenance Services, (ii) create a sinking fund for replacement of facilities that will be maintained by Authorized Maintenance Services, (iii) pay Administrative Expenses of CFD No. 17, (iv) cure delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

**“State”** means the State of California.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 17 which are not exempt from the Special Tax pursuant to law or Section E below.

**“Undeveloped Property”** means, for each Fiscal Year, all Taxable Property not classified as Developed Property or Property Owner Association Property.

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### **B. ASSIGNMENT TO LAND USE CLASSES**

Each Fiscal Year, all Taxable Property shall be classified as Developed Property, Undeveloped Property and Public Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment determined pursuant to Sections C and D below.

### **C. MAXIMUM SPECIAL TAX RATES**

The Maximum Special Tax for each Land Use Class for Fiscal Year 2019-2020 is as shown below.

<b>Land Use Class</b>	<b>Taxable Property</b>	<b>Taxable Unit</b>	<b>Maximum Special Tax</b>
1	Residential	Dwelling Unit	\$396.64
2	Non-Residential	Acre	\$880.48
3	Undeveloped	Acre	\$586.98

On each July 1, commencing on July 1, 2021, the Maximum Special Tax shall be adjusted based on the prior calendar year's average annual percentage change in the Consumer Price Index. Any increase in the Maximum Special Tax is subject to a maximum annual increase of five percent (5%) per Fiscal Year.

### **D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2019-2020 and for each following Fiscal Year, the Council or its designee shall determine the Special Tax Requirement and levy the Special Tax until the amount of Special Tax levy equals the Special Tax Requirement each Fiscal Year as follows:

- Step 1: Determine the Special Tax Requirement for the Fiscal Year in which the Special Tax will be collected.
- Step 2: Calculate the total Special Tax revenues that could be collected from Developed and Undeveloped Property within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section C above.
- Step 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed and Undeveloped Property pursuant to Section C above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in the CFD, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax

## ATTACHMENT C

is approved by two-thirds of the Electors voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 is equal to the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed and Undeveloped Property pursuant to Section C above.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax on all Parcels of Developed and Undeveloped Property in equal percentages up to 100% of the Maximum Special Tax for each Parcel until the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year

### **E. EXEMPTIONS / LIMITATIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment, no Special Tax shall be levied on land that is Public Property, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982.

### **F. MANNER OF COLLECTION**

The Special Tax will be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 17 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Act.

### **G. TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity to fund the Special Tax Requirement, unless no longer required to pay for Authorized Maintenance Services as determined at the sole discretion of the Council or as may be otherwise terminated pursuant to the Act.